

FILED  
07/24/08 PM 3:19  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
*[Handwritten signature]*

1 NEVIA FELTON, et al., vs.  
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8 DEFENDANT  
9 CALIFORNIA DEPT. OF CORRECTIONS  
10 OF CORRECTIONAL FACILITIES  
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UNITED STATES DISTRICT COURT  
DISTRICT OF CALIFORNIA

CIVIL NO. CV-07-4967-PJH

TO THE

24 THE ABOVE ENTITLED COURT, IN THE ABOVE ENTITLED CAUSE OF ACTION, PLAINTIFF  
25 PRESENTS THIS MOTION FOR ATTORNEY'S FEES AND COSTS TO THE END  
26 THAT PLAINTIFF BE AWARDED ATTORNEY'S FEES AND COSTS  
27 FOR PENDENCY DURING THIS ACTION.

28 The Motion shall be heard on the 2nd Friday in August, 2008, at 10:00 AM, before the Clerk  
and any other judge or magistrate assigned to hear the motion.  
A copy of this Motion will be served on all parties.

D. Maffei, Plaintiff's Counsel

1. On July 10, 2008,

2. Plaintiff has been harassed by administrative personnel, specifically  
with regard to his present position as an attorney at the California  
3. Plaintiff has been denied access to the legal library (to date).

4. Plaintiff has been denied access to the legal library (to date).

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27. Plaintiff has been denied access to the legal library (to date).

28. Plaintiff has been denied access to the legal library (to date).

4). Plaintiff has submitted four (4) FOIA requests to the Office of Legal

Legal Librarian, and legal office, and was denied access to the legal library.

5). Plaintiff has submitted four (4) FOIA requests to the Office of Legal

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6). Plaintiff has submitted four (4) FOIA requests to the Office of Legal

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1 AND PROCEEDINGS, ALSO VIOLATION OF ARTICLE 1  
 2 SECTION 3114, REGULATIONS OF THE STATE OF  
 3 ARIZONA, SECTION 3116(A) WHICH STATES THAT NOONE  
 4 MAY IN ANY WAY RETALIATE AGAINST A DEFENDANT OR ATTORNEY  
 5 FOR INITIATING A LAWSUIT.

6 THE CITIZENS' RIGHTS OFFICE IS ALREADY IN POSITION  
 7 AT THIS MOMENT, TO EXHAUST ADMINISTRATIVE REMEDIES  
 8 FOR THE DELIBERATE INDIFFERENCE BY STATE PRISONERS.

9 b) PRISON OFFICERS HAVE DENIED EQUAL EQUITY.

10 DEPRIVED OF PRACTICAL LIBRARY ACCESS,  
 11 TO FILE A CIVIL ACTION TO OBTAIN EQUAL  
 12 ACCESS TO PRACTICAL LIBRARY, PLAINLY TO HAVE §  
 13 1967-F. ED. 1443, 1447 (9TH CIR. 1985) FEDERAL COURTS VIOLATED  
 14 BY DENIAL OF LEGAL ASSISTANCE, AND PRACTICAL LIBRARY ACCESS.  
 15 ALTERED & DEFACED TO THE POINT WHERE IT IS UNREADABLE.

16 DENIED EQUAL ACCESS TO LIBRARIES.

17 CIVIL ACTIONS ARE NOT POSSIBLE BECAUSE OF DENIAL  
 18 OF PRACTICAL LIBRARY ACCESS.

19 VERA

20 IN THE CASE OF WALTERS V. MONSEY, 615  
 21 F. SUPP. 330, 340, (N.D. ILL. 1985), PLAINTIFFS HAVE NO ACCESS  
 22 TO A COURT LIBRARIAN, AND THE PLAINTIFLS ARE DENIED  
 23 EQUAL LIBRARY ACCESS, PLAINLY VIOLATING ELEMENT OF BRIEFS IN  
 24 TIME FOR COURT'S CONSIDERATION, WHICH IS UNACCEPTABLE.  
 25 TO GIVE A DEFENDANT ACCESS TO COURTS (NM) CODE OF REGULATIONS,  
 26 TITLE 10, SECTION 3122(a); 3113 & 3114, WHICH ARE PART OF SECTION  
 27 3306, REFERS TO THE NM CODE OF REGULATIONS § 7, 11,  
 28 WHICH IS UNACCEPTABLE.

1 AND 17.

2 IT IS plaintiffs belief that he has a constitutional right to file  
 3 ACCESS to the courts and file an "Ex Parte WEXTER" WEST VIRGINIA, 129 U.S.  
 4 114, 32 T.L.Ed. 623, 9 S.Ct. 2011, 6 C. "Due process of law is intended  
 5 TO SERVE CITIZENS AGAINST ARBITRARY DEPRIVATION BY THE GOVERNMENT OR  
 6 PUBLIC RELATING TO LIFE, LIBERTY, OR PROPERTY." 12 PARAPHRASED  
 7 201A, 85 L.Ed., 1034, 11 S.Ct. 3810 (1941) PRISONERS HAVE A FUNDAMENTAL  
 8 RIGHT TO INADEQUATE, EFFECTIVE, AND MEANINGFUL ACCESS TO THE COURTS  
 9 TO CHALLENGE VIOLATIONS OF THEIR CONSTITUTIONAL RIGHTS. Mactid v.  
GOMEZ, 150 F.3d 1038 (9th Cir. 1998), HOLDING  
 10 TO FILE SUITS, NOT ONLY TO CHALLENGE AN UNLAWFUL CRIMINAL ACT,  
 11 BUT ALSO TO PETITION FOR A "CIVIL ACT." Mactid v. Phillips, 164 F.  
 12 3d 313, PRISONERS CLEARLY HAVE A RIGHT CONSTITUTIONALLY GUARANTEED  
 13 TO ACCESS TO THE COURTS AND JUDICIAL REVIEW OF PRISONERS' ALLEGED  
 14 ABUSES BY THE AGENTS AND STAFF. "THEIR MEDIUM IS A CIVIL ACTION  
 15 AGAINST THE AGENTS AND STAFF. THEY ARE NOT TO BE DENIED THE  
 16 DEPRIVATION."

17 7).

18 FOR THE ABOVE REASONS, PLAINTIFF REQUESTS THAT THE STATE OF  
 19 WEST VIRGINIA TO REPRESENT HIM DURING THE PRACTICING OF HIS CIVIL  
 20 ACTION. PLAINTIFF SUBMITS THAT HE IS IN FEAR OF HIS LIFE, WHICH IS THE PRIMARY  
 21 CONCERN OF THE AGENTS OF THE CORRECTIONAL FACILITY. AFTER TAKING THIS  
 22 HIS CIVIL ACTION, PLAINTIFF WILL FILE HIS COMPLAINT AGAINST STATE (ORIN)  
 23 GOVERNMENT CORRECTIONAL FACILITIES

24 8). PLAINTIFF FURTHER BELIEVES, THAT WITHOUT A PRELIMINARY INJUNCTION  
 25 FROM THE COURT, TO PROHIBIT THE CONTINUED UNCONSTITUTIONAL ACTS  
 26 INFILCTED BY K.J. UNIVERSAL FACILITY OFFICIALS, AND THE AGENTS  
 27 PLAINTIFF WILL BE LEFT WITH NO REMEDY, AND PLAINLY VICTIMIZED

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1 continue to violate the rights of plaintiff, plaintiff will likely  
2 suffer irreparable harm, if the court does not issue a preliminary  
3 injunction, the threat of harm, that plaintiff faces, constitutes  
4 ANY harm that the preliminary injunction will cause prison  
5 officials. A preliminary injunction will serve as to not prejudice  
6 plaintiff and the outcome of these procedures and proceedings.

7 Felix v. McCarthy, 939 F.2d 649, (4th Cir. 1991) "It is NOT  
8 the degree of injury which makes out a violation of the 8th  
9 AMENDMENT, Rather it is the way or method of authority  
10 that is intentional, unjustified, brutal, and offensive to  
11 HUMAN dignity."

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17 Dated: July 16, 2008  
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John T. Fallon  
FBI - San Fran

1 Wherefore, with good cause having been  
2 shown:  
3 IT IS SO ORDERED:

4 THE WARDEN OF R.J. DONOVAN CORRECTIONAL FACILITY  
5 IS ORDERED TO COMPLY WITH ALL COURT ORDERS, WHILE  
6 PLAINTIFF IS IN STATE CUSTODY, AND ALLOW PLAINTIFF ACCESS  
7 TO LAW LIBRARY OR PROVIDE PLAINTIFF WITH A SKILLED TRAINED  
8 LEGAL ASSISTANCE, AT STATE EXPENSE, DURING THE PENDENCY  
9 OF THIS LitIGATION.

10  
11 IT IS FURTHER ORDERED, THAT A PRELIMINARY INSTRUCTION  
12 BE ISSUED TO THE CALIFORNIA DEPARTMENT OF CORRECTIONS,  
13 TO PREVENT ALL AND ANY FUTURE UNDUE VIOLATION OF  
14 PLAINTIFF'S CIVIL RIGHTS BY AGENTS OF THE CDCR, IN THE  
15 CAUSE OF ACTION, DURING THE PENDENCY OF THIS LitIGATION.  
16 IT IS SO ORDERED

17 Dated: \_\_\_\_\_  
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United States District Court

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VERIFIED BY:

1. I am an attorney.

2. I have reviewed the attached documents.

3. I am:

4. I declare under penalty of perjury that the foregoing is true and correct.

5. I have read or caused to be read this document to the undersigned.

6. I declare under penalty of perjury that the foregoing is true and correct.

7. I declare under penalty of perjury that the foregoing is true and correct.

Karen L. Green

Karen L. Green

# **Exhibit**

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## IONS AND REHABILITATION

## TITLE 15

## HISTORY:

1 Repealer and new section filed 10-7-82; effective thirtieth day  
 2 thereafter (Register 82, No. 41).

## Article 6. Legal Documents

**3160. Inmate Access to Courts.**

4 (a) Inmate access to courts shall not be obstructed. Staff shall  
 5 assist illiterate inmates or those physically incapable of preparing  
 6 forms adopted under rules of the United States courts and the  
 7 Judicial Council of California for petitions for habeas corpus or  
 8 modification of custody if such an inmate requests assistance. Staff  
 9 shall not in any way retaliate against or discipline any inmate for  
 initiating or maintaining a lawsuit.

10 (b) In addition to any other court costs, filing fees, or proce-  
 11 dures, an inmate initiating a state civil action shall pay a three-  
 12 dollar (\$3) filing fee to the Department.

13 (1) Civil actions are defined as any non-criminal actions. For  
 14 the purposes of this regulation, habeas corpus actions are not  
 15 considered civil actions.

16 (2) The filing fee shall be charged against the inmate's trust  
 17 account.

18 (3) If the inmate is without sufficient funds at the time of the  
 19 charge, the civil action shall be allowed to be transmitted to the  
 20 courts, and the inmate shall not be charged for any remaining  
 21 balance of the filing fee.

22 NOTE: Authority cited: section 5058, Penal Code. Reference: Sections  
 23 5054 and 2601, Penal Code.

## HISTORY:

24 1. Amendment of section heading and text and new Note filed  
 25 10-19-93; operative 11-18-93 (Register 93, No. 43).

26 2. Newly designated subsection (a), new subsections (b)-(b)(2) and  
 27 amendment of Note filed 1-3-95 as an emergency; operative 1-3-95  
 28 (Register 95, No. 1). A Certificate of Compliance must be trans-  
 mitted to OAL 6-12-95 or emergency language will be repealed by  
 operation of law on the following day.

1. Reinstatement of section as it existed prior to emergency amendment filed 7-25-95 by operation of Government Code section 11346.1(f) (Register 95, No. 30).

2. New emergency amendment filed 7-25-95; operative 7-25-95  
 (Register 95, No. 30). A Certificate of Compliance must be trans-  
 mitted to OAL by 11-22-95 or emergency language will be repealed by  
 operation of law on the following day.

3. Certificate of Compliance as to 7-25-95 order transmitted to OAL  
 7-25-95 and filed 10-16-95 (Register 95, No. 42).

**3161. Inmate-Owned Legal Materials.**

1. Inmate-owned legal materials/documents, law books and papers  
 2 shall be limited to the availability of space authorized by section  
 3 3190(b) for personal property in the inmate's quarters/living area  
 4 except as specified in this section. Inmates may possess up to one  
 5 cubic foot of legal materials/documents related to their active  
 6 cases, in excess of the six cubic feet of allowable property in their  
 7 assigned quarters/living area. Legal materials/documents, law  
 8 books and papers in excess of this limitation shall be disposed of  
 9 pursuant to section 3191(c). Inmates may request the institution/  
 10 facility store excess legal materials/documents related to their  
 11 active case(s) when such materials/documents exceed this one-  
 12 cubic foot additional allowance. Inmate-owned law books in  
 13 excess of the additional allowance shall not be stored by the  
 14 institution/facility.

15 NOTE: Authority cited: Section 5058, Penal Code. Reference: Section  
 16 5054, Penal Code.

## HISTORY:

17 1. Amendment of section heading and text and new Note file-  
 18 10-19-93; operative 11-18-93 (Register 93, No. 43).

19 Register 82, No. 41).

**3164. Administrative Segregation.**

20 (a) Inmates confined in administrative segregation for any  
 21 reasons will not be limited in their access to the courts.

22 (b) During a period of disciplinary detention, as described in  
 23 Section 3330, legal resources may be limited to pencil and paper  
 24 which will be provided upon request for correspondence with an  
 25 attorney or the preparation of legal documents for the courts. Other  
 26 legal material in the inmate's personal property may be issued to  
 27 him/her during this period.

28 NS /

an inmate in disciplinary detention if litigation was in progress  
 before the inmate's placement in disciplinary detention and legal  
 due dates are imminent.

(c) Inmates who are housed in any restricted unit and who are  
 not serving a period of disciplinary detention may possess and  
 have access to any legal resource material available to the general  
 population and may assist each other in their legal work to the  
 extent compatible with institution security. For the purpose of this  
 subsection, restricted units include reception centers, institution  
 reception or orientation units, controlled housing and security  
 housing units.

(d) If an inmate's housing restricts him or her from going to the  
 1. inmate law library, arrangements will be made to deliver requested  
 2. and available law library material to the inmate's quarters.

NOTE: Authority cited: section 5058, Penal Code. Reference: section  
 5054, Penal Code.

## HISTORY:

1. Amendment filed 10-7-82; effective thirtieth day thereafter (Reg-  
 2 ister 82, No. 41).